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No. 264

In the Supreme Court of the United States

OCTOBER TERM, 1932

UNITED STATES OF AMERICA, APPELLANT

v.

CHICAGO NORTH SHORE AND MILWAUKEE RAILROAD COMPANY

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

STATEMENT OF JURISDICTION

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STATEMENT OF JURISDICTION

In compliance with Rule 12 of this Court, the United States of America, appellant, submits herewith its statement showing the basis of the jurisdiction of this Court in the above-entitled cause:

A

STATUTES

The statutory jurisdiction of this Court to review by direct appeal the decree here complained of is conferred by the Act of February 11, 1903, c. 544, Sec. 2, 32 Stat. 823, known as the Expediting Act (U. S. C., Title 49, Secs. 44 and 45), and by Section 238 of the Judicial Code as amended by the Act of February 13, 1925.

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B

DATES OF DECREE AND APPLICATION FOR APPEAL

The final decree sought to be reviewed was entered March 24, 1932. (R. 104.)[1] Appeal was allowed May 21, 1932. (R. 110.)

Extensions of time were granted for docketing the case with the Clerk of this Court until July 31, 1932. (R. 111, 112.) The case was docketed in this Court July 29, 1932.

C

NATURE OF THE CASE

This cause was instituted by petition brought by the United States of America, appellant herein, for an injunction to restrain and prevent the appellee, a common carrier by railroad, from issuing further shares of capital stock, bonds, or other evidence of indebtedness without having first applied for and obtained the authorization of the Interstate Commerce Commission therefor, as required by Section 20a of the Interstate Commerce Act, C. 91, 41 Stat. 494 (U. S. C., Title 49, Sec. 20a), which section makes it unlawful for any carrier subject thereto to issue any share of capital stock or securities, etc., unless and until the Interstate Commerce Commission by order authorizes such issue. (R. 3–11.)

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[1] The record has not yet been printed. The page numbers refer to the pages of the record transmitted by the clerk of the court below.

The District Court wrote no opinion, but on March 24, 1932, filed its findings of fact and conclusions of law, holding that the appellee was not a carrier as defined by Section 20a of the Interstate Commerce Act, and that the petition for an injunction should be dismissed. (R. 86–103.)

CASES SUSTAINING JURISDICTION

The following decisions are believed to sustain the jurisdiction of this Court:

Interstate Commerce Commission v. *Baird,* 194 U. S. 25;

Swift & Company v. *United States,* 276 U. S. 311;

United States v. *California Cooperative Canneries,* 279 U. S. 553;

United States v. *Reading Co.,* 253 U. S. 26.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.
JOHN LORD O'BRIAN,
The Assistant to the Attorney General.
ELMER B. COLLINS,
Special Assistant to the Attorney General.

AUGUST, 1932.

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